

Recommendation Report for Planning Permission for Works or Extension to a Dwelling

REF NO: FP/297/17/HH

LOCATION: 15 Kingsmead
Felpham
PO22 7BD

PROPOSAL: Retention of summerhouse & associated ground works & landscaping.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Single storey timber clad outbuilding with decking to front and sides located in the south east corner of the rear garden with ground works and landscaping to flood bund which the development is built into/atop.
SITE AREA	0.07 hectares.
TOPOGRAPHY	Half of garden nearest the house is flat then steps up 1m (approx.) to rear atop flood bund (south).
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	1.8m fence to sides and rear. Fence drops down to remain at 1.8m at lower ground level.
SITE CHARACTERISTICS	Detached two storey chalet bungalow with single storey rear extension and detached garage to front. Garden to rear and driveway with garden to front.
CHARACTER OF LOCALITY	Suburban area formed mainly of detached residential houses and bungalows with garages to front. Butlins Holiday Park to south.

RELEVANT SITE HISTORY

BR/621/76	Erection Of Garage	ApproveConditionally 10-11-76
BR/834/84	Lounge Extension	ApproveConditionally 17-10-84
FP/1/17/HH	Loft conversion to create 2No. bedrooms & 2No. shower rooms, rear extension to create kitchen & dining area with balcony over	ApproveConditionally 21-03-17

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Felpham Parish Council

Objection - This outbuilding has already been built without planning permission, has also been built on a Saxon Mound, is intrusive and not in keeping with the neighbouring buildings. It could cause adverse implications with regard to flooding. Intrusive to neighbours as the height appears above the building regulations.

Three letters of representation received, objecting on the grounds of:-

- overlooking and loss of privacy,
- potential noise and disturbance from use of outbuilding,
- overbearing impact and visual intrusion to neighbouring dwellings,
- impact of increase flood risk

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

The officer agrees with the objections on the grounds of loss of privacy and overlooking. This would be from the decking to front and side, as it is raised, someone standing on the decking would have a clear view into ground floor downstairs windows and immediate rear amenity areas of numbers 17 Kingsmead and 101 Upper Bognor Road. Whilst it would be possible to stand on the flood bund and look over before the outbuilding was built, the bund was at a lower level and not as deep prior to construction meaning the fence would have restricted views. Now there is decking and an outbuilding, there is more reason for occupants to be on the decking as it accesses an outbuilding. The increase in overlooking and resultant loss of privacy is considered to be significantly harmful to residential amenity in conflict with saved policy GEN7 (iv).

The development does not increase the risk of flooding as there has been no objection from WSCC Flooding and the bund appears to have been reinforced rather than breached.

The building, whilst appearing larger owing to it's location atop the flood bund is set more than 14m away from the nearest neighbouring rear elevation of 103 Upper Bognor Road, so is not considered to be overbearing or visually intrusive.

The noise and disturbance from the use of the building is not considered to be a sustainable reason for refusal. It would not be significantly higher than general use of a garden. A smaller building could also be constructed under class E of the General Permitted development order, this is a fall back position that must be considered as it would create a similar level of noise and disturbance.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Environment Agency

Surface Water Drainage Team

CONSULTATION RESPONSES RECEIVED:

WSCC Flooding- No objection

WSCC strategic planning (Highways)

No comment.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Within the built up area boundary

Flood Zone 3 (high risk)

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN11 Inland Flooding

GEN7 The Form of New Development

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design Quality

D SP1 Design

SD SP2 Built -Up Area Boundary

W DM2 Flood Risk

W SP1 Water

[Felpham Neighbourhood Plan 2014 POLICY ESD1](#) Design of new development

Felpham Neighbourhood Plan 2014 POLICY ESD2 Development in flood sensitive areas

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new Local Plan is in preparation and constitutes a material consideration when determining planning applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was suspended whilst Arun District Council addressed matters raised by the Inspector but it resumed on 17th September 2017 and has now concluded. The District Council is awaiting the Inspector's report which is due out in Spring 2018. The Main Modifications to the

Arun Local Plan and evidence base are being made available for public consultation. Representations can be submitted to the council over a six week period starting on Friday 12 January until 5pm on Friday 23 February. This follows on from the Arun Local Plan examination hearings held in September 2017.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taken place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination ended in Autumn 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

The development is considered to comply with relevant Felpham NDP policies ESD1 and ESD2.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with relevant Development Plan policies in that it would adversely effect the residential amenities of the adjoining properties owing to loss of privacy through overlooking.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

DESIGN AND VISUAL AMENITY

The outbuilding would be residential in form and appearance. Although it is in an elevated location and visible from Upper Bognor Road, it is not considered to be damaging in appearance to the street scene and acceptable as a residential back garden structure. The scale of building is not considered to be excessive as it would protrude modestly above the rear fence and would not covered the whole rear boundary.

The landscaping and groundworks are not visible from the street scene so have little impact on visual amenity.

The development is considered to be acceptable in terms of impact on visual amenity in compliance with GEN7 (ii).

RESIDENTIAL AMENITY

The building, whilst appearing larger owing to it's location atop the flood bund is set more than 14m away from the nearest neighbouring rear elevation of 101 Upper Bognor Road, so is not considered to be overbearing or visually intrusive to neighbouring residential amenity.

The development is considered to be unacceptable in terms of impact on privacy through overlooking. The windows of the outbuilding could be conditioned to be obscure glazed should approval be granted. However, the overlooking is created from the decking to front and side, as it is raised, a person standing on the decking would have a clear view into ground floor downstairs windows (19 Kingsmead has a bedroom window on the ground floor of its rear elevation) and immediate rear amenity areas of numbers 17 Kingsmead and 101 Upper Bognor Road. Whilst it would be possible to stand on the flood bund and look over before the outbuilding was built, the bund was at a lower level and not as deep prior to construction meaning the fence would have restricted views. Now there is decking and an outbuilding, there is more reason for occupants to be on the decking as it accesses an outbuilding. The increase in overlooking and resultant loss of privacy is considered to be significantly harmful to residential amenity in conflict with saved policy GEN7 (iv) and planning permission should be refused for this reason.

FLOODING

The development does not increase the risk of flooding as there has been no objection from WSCC Flooding and the bund appears to have been reinforced rather than breached. The development is not considered to create a flood risk in line with saved policy GEN11.

The development is refused planning permission for the reason outlined below:

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms

of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 The development by reason of the location of its external raised decking creates potential damaging overlooking into rear ground floor windows and immediate rear private amenity spaces of neighbouring dwellings numbers 17 Kingsmead and 101 Upper Bognor Road which leads to a detrimental impact on residential amenity through loss of privacy from overlooking contrary to saved Arun Local Plan policy GEN7 (iv).
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.